



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JOSEPH SWAN, A PROFESSIONAL CORPORATION
1334 PARKVIEW AVENUE, SUITE100
MANHATTAN BEACH CA 90266

MAILED

JUL 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,580,876	: DECISION ON APPLICATION FOR
Issued: August 25, 2009	: PATENT TERM ADJUSTMENT and
Application No. 09/615,021	: NOTICE OF INTENT TO ISSUE
Filed: July 13, 2000	: CERTIFICATE OF CORRECTION
Dkt. No.: 35512-00033	:

This is a decision on the application for patent term adjustment timely filed on May 4, 2010. The application for patent term adjustment asserts that the patent is entitled to a patent term adjustment of 2,637 days (505 days under 37 CFR 1.702(a) + 2,235 days under 37 CFR 1.702(b) – 102 days of applicant delay).

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The patent is entitled to an overall adjustment of 2,563 days.

The patent is entitled to an adjustment of 504 days pursuant to 37 CFR 1.703(a)(1).

The patent is entitled to an adjustment of 2,235 days pursuant to 37 CFR 1.703(b).

The patent is entitled to an adjustment of 1,086 days pursuant to 37 CFR 1.703(e).

The period of adjustment granted under 37 CFR 1.703 shall not exceed the actual number of days the issuance of the patent was delayed. As the period of adjustment of 1,086 days overlaps with the period of adjustment of 2,235 days, the period of 1,086 days of adjustment is not included in the overall patent term adjustment accorded the patent. See, 37 CFR 1.703(f).

Furthermore, the patent is not entitled to adjustment under 37 CFR 1.703(b) for the period of time beginning on the date that the Notice of Appeal was filed, December 22, 2003, and ending on the date that the non-final Office action was mailed in response thereto on May 6, 2004, or 136 days. See, 37 CFR 1.703(b)(4).

The adjustment is properly reduced a total 40 days, not 102 days, for applicant delays (5 days under § 1.704(b) + 4 days under § 1.704(b) + 4 days under § 1.704(b) + 27 days under § 1.704(b)).

In view thereof, the patent is entitled to an overall adjustment of 2,563 days (504 days under § 1.702(a) + 2,235 days under § 1.702(b) + 1,086 under § 703(e) – 1,086 overlapping days pursuant § 1.703(f) – 136 days pursuant to § 1.703(b)(4) - 40 days of applicant delay under § 1.704)).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges the submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 2,563 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,580,876 B1

DATED : August 25, 2009

DRAFT

INVENTOR(S) : Phillips, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 2,195 days

Delete the phrase "by 2,195 days" and insert – by 2,563 days--